

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ULTIMATE LIVING INTERNATIONAL,
INC.,

Plaintiff,

v.

MIRACLE GREENS, INC., d/b/a FIT
FOR YOU INTERNATIONAL,

Defendant.

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3:05-CV-01745-M

**PLAINTIFF ULTIMATE LIVING INTERNATIONAL'S
MOTION FOR AN ORDER TO SHOW CAUSE**

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**ATTORNEYS FOR PLAINTIFF ULTIMATE
LIVING INTERNATIONAL, INC.**

Plaintiff Ultimate Living International, Inc. (“Ultimate Living”) respectfully files this Motion for an Order requiring Defendant Miracle Greens, Inc. d/b/a Fit For You International to appear and show cause why it should not be held in contempt of this Court’s Order and Injunction [Document 81]. A Brief in Support is being filed concurrently herewith.

Defendant MacroLife Naturals, Inc. (formerly known as Miracle Greens, Inc. d/b/a Fit For You International) (hereafter, “MacroLife”) is in civil contempt of this Court’s Order and Injunction. It cannot be denied: (1) that a valid court order was in effect against MacroLife; (2) that the order required certain conduct by MacroLife; and (3) that MacroLife has failed to comply with the Court’s Order and Injunction.

As set forth in greater detail in Plaintiff’s Brief in Support, Plaintiff Ultimate Living is entitled to damages and further injunctive relief from and against MacroLife as a result of its noncompliance with the Order and Injunction. Plaintiff Ultimate Living therefore respectfully seeks an Order of this Court requiring Defendant MacroLife to present itself and show cause why it should not be held in contempt of this Court’s Order and Injunction and Judgment [Docket Nos. 81 and 84]. More specifically, Ultimate Living seeks an Order:

1. Requiring MacroLife to render an accounting of its profits for all sales of all products advertised using the MIRACLE GREENS mark after July 28, 2007, including but not limited to the product now known as MACRO GREENS;
2. Requiring MacroLife to answer discovery from Ultimate Living concerning its profits for all sales of all products advertised using the MIRACLE GREENS mark after July 28, 2007, including but not limited to the product now known as MACRO GREENS;
3. Requiring MacroLife to pay in damages to Ultimate Living an amount equal to its profits for all sales of all products advertised using the MIRACLE GREENS mark after July 28,

2007, including but not limited to the product now known as MACRO GREENS, including pre- and post-judgment interest thereon;

4. Requiring MacroLife to pay all attorney's fees and costs incurred by Ultimate Living in obtaining compliance with the Injunction on the part of MacroLife, including all such fees associated with the preparation and prosecution of this Motion for and Order to Show Cause;

5. Requiring MacroLife to pay enhanced damages to Ultimate Living as a result of MacroLife's willful and blatant non-compliance with the Injunction, in an amount equal to three times its profits or an amount to be determined by the Court;

6. Permanently enjoining MacroLife from all use of the term "Miracle" or of the term "Miraculous" in its advertising and in all trademarks and/or trade names associated with any MacroLife product;

7. Requiring MacroLife to immediately and fully comply with the terms of the Order and Injunction and Judgment [Docket Nos. 81 and 84]; and

8. Granting all other such relief to which Ultimate Living is entitled.

Dated: August 13, 2007

Respectfully submitted,

/s/ Charles E. Phipps

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CERTIFICATE OF CONFERENCE

I hereby certify that I have attempted to confer with Ms. Sylvia Ortiz on August 13, 2007 regarding the subject matter contained in this Motion to Show Cause and the accompanying Brief in Support. Having received no reply from Ms. Ortiz, this Motion is being presented as Opposed.

/s/ Charles E. Phipps

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of August, 2007, I electronically filed the foregoing document, along with the Brief in Support and Proposed Order, with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to all attorneys of record who have consented in writing to accept his Notice as service of this document by electronic means.

I further certify that a copy of the foregoing documents were served on this date via U.S. Certified Mail to the following party: MacroLife Naturals, Inc.; Attention: Sylvia Ortiz, CEO; 971 South Bundy Drive, Los Angeles, California 90049.

/s/ Charles E. Phipps